

REMARKS

Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The July 1, 2008 Office Action called for a restriction to one of the following inventions as required under 35 U.S.C. 121:

I. Claims 1-8, 10 and 15 are drawn to a product of Formula I, depicted in claim 1, variously classified in several subclasses of classes 514, 546 and 548.

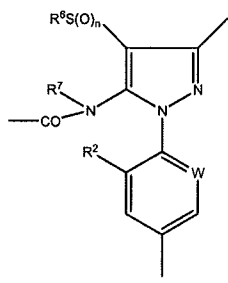
II. Claim 9, is drawn to a method of preparing compounds of Formula I, depicted in claim 1, variously classified in several subclasses of classes 546 and 548.

III. Claims 13, 14, 16 and 17 are drawn a method of use of compounds of Formula I, depicted in claim1, variously classified in several subclasses of classes 514.

Applicant elects, with traverse, invention I, which relates to compounds of Formula I, and encompasses claims 1-8, 10 and 15. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

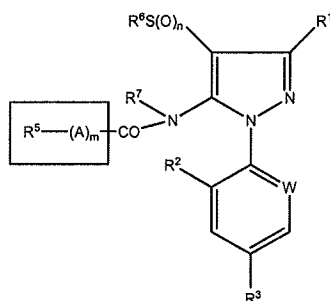
The Office Action states that the inventions listed in Groups I-III are not linked so as to form a single inventive concept under PCT Rule 13.1. Allegedly, “the inventions listed as Groups I and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature for the following reasons: they do not share the same essential structural element(s) that define the “special technical feature” necessary to specify a contribution over the prior art”. Applicants respectfully disagree.

The Office Action indicates that “the structural moiety common to Groups I and III is



which is known in the art (see US 5556873) and therefore, cannot be said the special feature, which makes a contribution over the prior art. All other substituents differ structurally from one another”. It is respectfully submitted, that the special feature which links the claims of Groups I

—III is not the structural moiety indicated in the Office Action, but Formula I of the present invention:



Contrary to the assertions in the Office Action, the special technical feature of the claims of Groups I-III is not present in the prior art. U.S. Patent No. 5,556,873 does not relate to the 5-amino pyrazoles of the present invention. The cited reference does not teach or suggest R⁵—(A)ₘ— substituents of Formula I. As such, Formula I is a special technical feature that links together Groups I-III, as compounds of Formula I, a process for preparation of compounds of Formula I and a method of use compounds of Formula I for pest control, and therefore fulfills the Unity of invention requirement.

In view of the fact that the lack of unity objection is based on erroneous reasoning, i.e., it is not based on the actual special technical feature which unifies the claims of Groups I-III, all of the Groups of claims should be rejoined in the present application.

In summary, enforcing the present restriction requirement would result in inefficiencies and unnecessary expenditures by both the Applicant and the PTO, as well as extreme prejudice to Applicant (particularly in view of GATT, whereby a shortened patent term may result in any divisional applications filed). Restriction has not been shown to be proper, especially since it has been shown that the requisite showing of serious burden has not been made. Indeed, the search and examination of each invention would be likely co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding, therefore, mitigate against restriction.

In view of the above, reconsideration and withdrawal of the restriction requirement are requested.


CONCLUSION

In view of the remarks herein, reconsideration and withdrawal of the restriction requirement are requested.

Early and favorable consideration of the application on the merits, and early Allowance of the application are earnestly solicited.

No fee is believed to be due. The Commissioner is authorized to charge any fee occasioned by this paper, or credit any overpayment in fees, to Deposit Account No. 50-0320.

Respectfully submitted,
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